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## PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

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## Subpart A—General

### § 1254.1 General provisions.

(a) Researchers will normally use documents in designated research rooms only.

(b) Original documents will not normally be made available when microfilm copies or other alternative copies of the documents are available.

(c) Persons seeking information that is published and readily available will normally be referred to a public library.

(d) A director may require that researchers under the age of 16 years be accompanied by an adult researcher who agrees in writing to be present when the documents are used and to be responsible for compliance with the research room rules set forth in subpart B.

(e) Requests received in the normal course of reference service that do not specifically cite the Freedom of Information Act (5 U.S.C. 552) are not considered requests made under the act. Requests under the act must follow the procedure set forth in subpart C or subpart D of this part.

(f) Certain documents in the custody of NARA are available for exhibit, but

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are loaned only if the exhibitor meets exacting requirements regarding security, insurance coverage and humidity and temperature control of the exhibit area. These requirements may be obtained by writing to National Archives (NE), Washington, DC 20408.

[33 FR 4885, Mar. 22, 1968, as amended at 40 FR 7924, Feb. 24, 1975; 40 FR 28610, July 8, 1975; 42 FR 13022, Mar. 8, 1977. Redesignated and amended at 50 FR 15723, 15726, Apr. 19, 1985; 59 FR 29192, June 6, 1994]

### § 1254.2 Location of documents and hours of use.

(a) Researchers should identify the location of the documents needed. Inquiries may be addressed to the National Archives (NNRS), Washington, DC 20408.

(b) The locations and hours of operation (expressed in local time) of the depositories administered by the National Archives and Records Administration are shown in part 1253 of this chapter.

(c) Except for Federal holidays and other times specified by the Archivist or other authorized NARA officials, documents will be made available according to the schedule set forth in part 1253.

(d) In addition to the times specified in part 1253, documents may be made available at such other times as are authorized by a director.

[40 FR 7925, Feb. 24, 1975, as amended at 42 FR 13022, Mar. 8, 1977; 49 FR 33253, Aug. 22, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985, and amended at 56 FR 2135, Jan. 22, 1991; 59 FR 29192, June 6, 1994]

### § 1254.4 Research procedures.

(a) Before applying to use documents, the researcher should ask the depository holding them whether the documents are available, whether there are enough documents to warrant a visit, or whether copies would be more practical.

(b) Researchers must apply in person at the depository that has custody of the documents.

(c) Researchers who wish to use documents not on microfilm in a depository where the microfilm research room is separate from textual research rooms, must complete a researcher identification application form and provide the

information needed to decide which documents can be made available. Researchers who wish to use only microfilm documents in a depository where the microfilm research room is not separate from textual research rooms must also comply with this paragraph. Applicants must show identification containing a picture or physical description of the applicant, e.g., a driver's license or school identification card. Exceptions to this requirement must be approved by the director. If applying for access to large quantities of documents or to documents that are especially fragile or valuable, the researcher may be required to furnish additional information about personal or professional qualifications or to furnish additional reasons why access is required. The collection of information contained in this paragraph has been approved by the Office of Management and Budget with the control number 3095-0016.

(d) A researcher will not be issued a researcher identification card if the branch chief or director of the relevant repository determines that:

(1) The documents which the researcher wishes to use are not in the legal custody of NARA; or

(2) The researcher is not interested in documents maintained by NARA but in information contained in secondary sources available at other institutions.

(e) Researchers using only microfilm, where the microfilm research room is separate from textual research rooms, are not issued an identification card but must register as described in § 1254.10.

(f) In addition to the procedures in this section, researchers desiring to use archives that contain national security classified information must follow procedures in subpart D.

(g) The legal custody and control over access to records that are in the physical custody of the records centers, but not yet accessioned into the National Archives of the United States, remains with the agency. NARA informs researchers of the procedures required to obtain access.

[49 FR 33253, Aug. 22, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985, and amended at 56 FR 2135, Jan. 22, 1991; 59 FR 29192, June 6, 1994]

#### **§ 1254.6 Researcher identification card.**

An identification card is issued to each person whose application is approved to use records other than microfilm. The card is valid at each depository (except the Presidential libraries which issue cards valid only at the issuing library) for 2 years, but it may be renewed upon application. Cards are not transferable and must be produced if requested by a guard or research room attendant.

[49 FR 33254, Aug. 22, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### **§ 1254.8 Subpoenas and other legal demands for records transferred to the National Archives and Records Administration.**

(a) Access to records transferred to a Federal records center is controlled by the instructions and restrictions imposed on NARA by the Federal agency that transferred the records to the Federal records center. NARA will honor a subpoena duces tecum or other legal demand for the production of these records, to the extent required by law, if the transferring agency has imposed no restrictions. When the transferring agency has imposed restrictions, NARA will notify the authority issuing the subpoena or other legal demand that NARA must abide by the agency-imposed restrictions and will request the authority to pursue the matter directly with the transferring agency.

(b) The Archivist of the United States, the Director of the Legal Services Staff (NXL) or his designee, and the Director of the Federal Records Center in which the records are stored are the only NARA officials authorized to accept a subpoena or other legal demand for records transferred to a Federal records center.

(c) A subpoena duces tecum or other legal demand for the production of documents designated as *archives* or *donated historical materials* administered by NARA may be served only on the Archivist of the United States, the Director of the Legal Services Staff (NXL) or his designee, the appropriate

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Assistant Archivist, Director of a Regional Archives, or Director of a Presidential Library.

[50 FR 15727, Apr. 19, 1985, as amended at 59 FR 29192, June 6, 1994]

### Subpart B—Research Room Rules

#### § 1254.10 Registration.

Researchers must register each day they enter a research facility, furnishing the information asked on the registration sheet and may be asked to provide additional personal identification.

[59 FR 29192, June 6, 1994]

#### § 1254.12 Researcher's responsibility for documents.

(a) The research room attendant may limit the quantity of documents delivered to a researcher at one time. The researcher must sign for the documents received and may be required to show his/her researcher identification card. The researcher is responsible for the proper handling of and prevention of damage to all documents delivered to him/her until he/she returns them. When the researcher is finished using the documents, the documents must be returned to the research room attendant. The reference service slip that accompanies the documents to the research room must not be removed. If asked to do so, the researcher must return documents as much as 15 minutes before closing time. Before leaving a research room, even for a short time, a researcher must notify the research room attendant and place all documents in their proper containers.

(b) When microfilm is available on a self-service basis, research room attendants will assist researchers in identifying research sources on microfilm and provide information concerning how to locate and retrieve the roll(s) of film containing the information of interest. The researcher is responsible for retrieving and examining the roll(s). Unless a researcher requires assistance in learning how to operate microfilm reading equipment, the researcher is expected to install the microfilm on the reader. Unless otherwise permitted, a researcher is limited to one roll of microfilm at a time.

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After using each roll, the researcher is responsible for refiling the roll of microfilm in the location from which it was removed, unless instructed otherwise.

(c) Researchers are responsible for complying with provisions of the Copyright Act (Title 17, United States Code) which governs the making and use of electrostatic copies or other reproductions of copyrighted materials.

[59 FR 29192, June 6, 1994]

#### § 1254.14 Restrictions on using microfilm readers.

(a) Use of the microfilm readers in the National Archives Building will be on a first-come, first-served basis. When other researchers are waiting to use a microfilm reader, a 3-hour limit may be placed on using a reader. After 3 hours of machine use, the researcher may sign the waiting list for an additional 3-hour period.

(b) The number of researchers in the microfilm research room in the National Archives Building will be limited, for fire safety reasons, to those researchers assigned a microfilm reader.

(c) Directors of regional archives may permit reservations for use of microfilm readers and set time limits on use to meet local circumstances. Rules for use will be posted in the research room.

[59 FR 29193, June 6, 1994]

#### § 1254.16 Prevention of damage to documents.

(a) Researchers must exercise all possible care to prevent damage to documents.

(b) Documents may not be used at a desk where there is food or liquid or where an ink pen is being used. Only pencils may be used in research rooms where original documents are used.

(c) Documents must not be leaned on, written on, folded anew, traced, or handled in any way likely to cause damage.

(d) Documents must be identified for reproduction only with a paper tab provided by NARA. Documents may not be fastened with paper clips or rubber bands.

(e) Microfilm must be carefully removed from and returned to the proper microfilm boxes. Care must be taken loading and unloading microfilm from microfilm readers. Damaged microfilm must be reported to the research room attendant as soon as it is discovered.

(f) Exceptionally valuable or fragile documents may be used only under the conditions specified by the research room attendant.

[59 FR 29193, June 6, 1994]

#### **§ 1254.17 Keeping documents in order.**

A researcher must keep unbound documents in the order in which they are delivered to him/her. Documents that appear to be in disorder must not be rearranged by the researcher, but must be referred to the research room attendant. Researchers may use only one folder at a time. Researchers are not allowed to remove documents from more than one container at a time. Researchers should bring to the attention of the research room attendant microfilm put in the wrong box or file cabinet.

[Redesignated and revised at 59 FR 29193, June 6, 1994]

#### **§ 1254.18 Removal or mutilation of documents.**

Researchers may not remove documents from a research room. Removing or mutilating documents is forbidden by law and is punishable by fine or imprisonment or both (18 U.S.C. 2071). Researchers must check personal belongings, including briefcases, folders, coats, newspapers, or containers of any kind before entering a research room. Upon leaving, researchers must present for examination any article that could contain documents. To ensure that documents are not unlawfully removed or mutilated, the director may issue and post at the entrance to the research room instructions supplementing the rules in subpart B.

[49 FR 33254, Aug. 22, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### **§ 1254.20 Conduct.**

(a) *Regulations.* Researchers are subject to the provisions of part 1280 of this chapter and to all rules and regulations issued and posted or distributed

by a facility director supplementing subpart B of this part, including rules on the use of NARA equipment. Eating, drinking, and chewing gum in a research room are prohibited. Smoking is prohibited except in designated smoking areas. Loud talking and other activities likely to disturb other researchers are also prohibited. Persons desiring to use typewriters, computers, sound recording devices, or similar equipment must work in areas designated by the research room attendant.

(b) *Revocation of a researcher identification card.* If researchers who receive researcher identification cards refuse to comply with the rules and regulations of a NARA facility, or by their actions demonstrate that they present a danger to the documents or a danger or annoyance to other researchers or employees, they may have their identification cards revoked by the director. A researcher whose card is revoked is denied research privileges at all NARA facilities and must receive a written notice of the reasons for the revocation within 3 workdays. A researcher whose identification card is revoked has 30 calendar days after the revocation to appeal in writing to the Archivist of the United States, National Archives (N), Washington, DC 20408, for reinstatement of research privileges. On receiving an appeal, the Archivist of the United States has 30 days to decide whether or not to reinstate the research privileges. If the revocation is upheld or if no appeal is made, the researcher may not apply for another identification card for 6 months from the date of the revocation, and all NARA facilities will be so notified. At the end of 6 months, a researcher whose identification card was revoked may reapply for a new card. Upon application, a new identification card is issued for a probationary period of 2 months. However, if the probationary reinstatement of a researcher poses a serious threat to the safety of persons or property, the director may deny probationary reinstatement and will so advise the applicant in writing within 3 workdays of receiving the application. At the end of the probationary period the researcher may apply for a new identification card valid for 2 years. If

the researcher's conduct in NARA facilities during the probationary period is proper, a regular 2-year identification card is issued. If the researcher's conduct during the probationary period is found unsatisfactory or if the director denies reinstatement, research privileges will again be denied for 6 months. A second and any later revocation of research privileges may be appealed to the Archivist of the United States under the procedures in this section.

(c) *Withdrawal of research privileges for researchers not required to have a researcher identification card.* If researchers who are not required to have researcher identification cards refuse to comply with the rules and regulations of a NARA facility or by their actions demonstrate that they present a danger to NARA property or a danger or nuisance to other researchers or employees, NARA may withdraw all research privileges. A researcher whose research privileges are withdrawn under this paragraph will lose research privileges at all NARA research rooms, including those for which no researcher identification card is required. A researcher whose research privileges have been withdrawn may not apply for a researcher identification card, or for readmittance to research rooms not requiring a research card, until research privileges have been restored (see below). A researcher whose research privileges are withdrawn under this paragraph will be sent a written notice of the reasons for the withdrawal within 3 workdays. The researcher has 30 calendar days after the withdrawal to appeal in writing to the Archivist of the United States (address: National Archives and Records Administration (N), Washington, DC 20408) for reinstatement of research privileges. The Archivist of the United States has 30 calendar days from receipt of the appeal to decide whether or not to reinstate the research privileges. If the withdrawal is upheld or if no appeal is made, the researcher may request reinstatement of privileges no earlier than 180 calendar days from the date the privileges were revoked. If readmission to a NARA facility poses a threat to the safety of persons or property, NARA may continue to extend the

withdrawal period for 180-day periods. The researcher will be notified in writing of all such extensions within 3 workdays of NARA receiving a request for reinstatement of research privileges. The researcher may appeal any decision to extend the withdrawal of research privileges to the Archivist of the United States. All appeals must be made in writing to the Archivist of the United States within 30 calendar days of the decision being appealed.

[49 FR 33254, Aug. 22, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985, and amended at 51 FR 17187, May 9, 1986; 56 FR 2135, Jan. 22, 1991; 59 FR 29193, June 6, 1994]

#### § 1254.24 Locker use policy.

(a) The National Archives and Records Administration (NARA) prohibits researchers from carrying boxes, briefcases, satchels, valises, purses, or other large containers into the research rooms or authorized stack areas. To accommodate researchers who have these items, lockers or other storage facilities are conveniently located near research rooms. These lockers or other storage facilities are available on a first-come-first-served basis.

(b) Researchers' personal belongings must be removed each night from the lockers or other storage facilities provided to hold them unless special permission is obtained in advance from designated research room staff. If personal belongings are not removed from the facilities by the researcher, they will be removed by NARA personnel. Directions for reclaiming confiscated items will be posted near the lockers or other storage facilities.

(c) The National Archives and Records Administration is not responsible for the loss or theft of articles stored in the lockers.

[45 FR 8603, Feb. 8, 1980. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1254.26 Additional rules for use of certain research rooms in NARA facilities in the Washington, DC, area.

(a) Admission to research rooms in the National Archives Building, the Washington National Records Center, and the National Archives at College Park facility at which original documents are made available is limited to individuals examining and/or copying

documents and other materials in the custody of the National Archives and Records Administration. Children under the age of 16 will not be admitted to these research rooms unless they have been granted research privileges or are granted an exception to this provision to view specific documents that a parent or other accompanying adult researcher is using. The exception will be granted by the Director of the User Services Division for a child who is able to read and who will be closely supervised by the adult researcher while in the research room. Normally, such a child will be admitted only for the short period required to view the documents. Unless otherwise permitted, children under the age of 16 who have been granted special permission to accompany an adult using records may not actively participate in research activities, e.g., removing, copying, or re-filing documents. Students under the age of 16 who wish to perform research on original documents must apply in person to the Director of the User Services Division and present a letter of reference from a teacher. Such students may contact the National Archives by phone or letter in advance of their visit to discuss their eligibility for research privileges. Students under the age of 16 who have been granted research privileges will be required to be accompanied in the research room by an adult with similar privileges, unless the Director of the User Services Division specifically waives this requirement with respect to individual researchers.

(b) The procedures in paragraphs (c) through (g) of this section apply to all research rooms in the National Archives Building (except the Microfilm Research Room); the Suitland Research Room in the Washington National Records Center; and the research rooms in the National Archives at College Park. These procedures are in addition to the procedures specified elsewhere in this part.

(c) All researchers bringing personal typewriters, tape recorders, cameras, personal computers, and other equipment, into the National Archives Building shall complete the Equipment Log at the guard's desk in the lobby. The log will evidence personal owner-

ship and will be checked by the guard when such equipment is removed from the building.

(d) Researchers must present a valid researcher identification card to the guard or research room attendant on entering the room. All researchers are required to sign each day the research room registration sheet at the entrance to the research room. Researchers will also record the time they leave the research room at the end of the visit for that day. Researchers are not required to sign in or out when leaving the area temporarily.

(e) Researchers may not bring into the research rooms overcoats, raincoats, hats, or similar apparel; personal copying equipment, including personal paper-to-paper copiers; briefcases, suitcases, daypacks, purses, or similar containers of personal property; notebooks, notepaper, notecards, folders or other containers for papers. These items may be stored at no cost in lockers available in the hallway adjacent to the various research rooms. The following exceptions may be granted:

(1) Hand-held wallets and coin purses for the carrying of currency, coins, credit cards, keys, drivers licenses and other identification cards may be brought into research rooms, but are subject to inspection when the researcher enters or leaves the room. The guard or research room attendant shall judge whether the wallet or purse may be considered small for purposes of this section;

(2) Notes, references, lists of documents to be consulted, and other materials may be admitted if the chief of the branch administering the research room or the senior archivist on duty in the research room determines they are essential to a researcher's work requirements. Materials will be presented to the research room attendant when the researcher enters the research room. Materials approved for admission will be stamped to indicate that they are the personal property of the researcher;

(3) Typewriters, personal computers, tape recorders, and hand-held cameras may be admitted by the research room attendant provided that they are inspected, approved, and tagged prior to

admittance. The chief of the branch administering the research room or the senior archivist on duty in the research room will review the determination made by the research room attendant if requested to do so by the researcher; and

(4) Notepaper and notecards provided by the National Archives and electrostatic copies made on copying machines in NARA research rooms which are marked with the statement "Reproduced at the National Archives" may be brought back into the research room on subsequent visits but must be presented on entry to the research room attendant for inspection.

(f) NARA will furnish to researchers, without charge, pencils and specially marked lined and unlined notepaper and notecards, for use in the research rooms. Pencils and unused notepaper and notecards should be returned to the research room attendant at the end of the day.

(g) The personal property of all researchers, including notes, electrostatic copies, typewriter cases, tape recorders, cameras, personal computers, and other property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

(h) In addition to the procedures in paragraphs (c) through (g) of this section, the following procedures apply to the Motion Picture, Sound, and Video Research Room (hereinafter, "the research room") in the National Archives Building:

(1) Use of NARA viewing and listening equipment in the research room is provided on a first-come-first-served basis. When others are waiting to use the equipment, a three-hour limit may be imposed on the use of the equipment.

(2) The following procedures shall be followed when personal recording equipment and accessories are brought into the unrestricted viewing and copying area in the research room:

(i) Personal recording equipment brought into the unrestricted viewing and copying area in the research room must be inspected and tagged by the

research room attendant prior to admittance. All equipment and accessory devices must be placed on the table adjacent to the viewing station, except that a tripod holding a video camera may be placed on the floor in front of a film viewing station.

(ii) Researchers shall remain in the research room while their personal equipment is in use at an audio or video viewing station. The film viewing stations must be attended at all times while in use. Researchers shall remove their personal equipment from the research room when they leave the room for the day or for extended breaks.

(iii) NARA will not be responsible for assisting with "hook-up" to NARA viewing equipment; for providing compatibility between the personal recording equipment and NARA viewing equipment; or for the quality of the copies made by researchers. NARA will provide the researcher information on the types of NARA equipment being used in the research room and on the cables necessary for hook up to the NARA viewing equipment.

(3) When a researcher brings audio or video recording tapes or cassettes into the unrestricted area of the research room, the research room attendant will mark the recording media "NARA-approved personal property" for identification purposes. Such media shall be inspected upon exit from the research room, as well as upon exit from the National Archives Building.

(4) A NARA-furnished video copying station and 120-minute blank video cassette may be reserved, for a fee, on a first-come, first-served basis for a 90-minute period of time. If no other individual is waiting to use the station, an additional time period may be reserved at the end of the current period. Personal recording devices may not be connected to NARA equipment at the video copying station. Only NARA-provided tapes may be used at the video copying station. Fees for use of the station and blank cassette are specified in § 1258.12 of this chapter.

(5) The NARA or personal recording device and media may be used to make a personal-use copy of unrestricted archival materials in the research room.

(6) Each researcher will be provided a copy of the Motion Picture, Sound, and



Video Research Room rules and a warning notice on potential copyright claims in unrestricted titles. The researcher must sign a statement acknowledging receipt of the rules and notice. The individual making and/or using the copy is responsible for obtaining any needed permission or release from a copyright owner for other use of the copy.

(7) No personal recording device or media is permitted in the restricted viewing area in the research room.

[51 FR 17187, May 9, 1986, as amended at 56 FR 2135, Jan. 22, 1991; 56 FR 58312, Nov. 19, 1991; 57 FR 46306, Oct. 8, 1992; 59 FR 29193, June 6, 1994]

**§ 1254.27 Additional rules for use of certain research rooms in Federal records centers, regional archives, and Presidential libraries.**

(a) When directed by the appropriate director, the following procedures shall be observed in Federal Records Center, regional archives and Presidential library archival research rooms where original documents are used. These procedures are in addition to the procedures specified elsewhere in this part.

(b) Researchers must present a valid researcher identification card to the guard or research room attendant on entering the room. All researchers are required to sign each day the research room registration sheet at the entrance to the research room. Where instructed to do so, researchers also sign out when leaving the research room for the day. Researchers are not required to sign in or out when leaving the area temporarily or at the end of the day.

(c) Researchers may not bring into the research room overcoats, raincoats, hats, and similar apparel, and briefcases, suitcases, daypacks, purses, or similar containers of personal property. In facilities where NARA provides notepaper and notecards, researchers also may not bring into the research room notebooks, notepaper, notecards, folders or other containers for papers. In facilities where NARA provides a self-service copier, researchers may not bring into the research room personal copying equipment including personal paper-to-paper copiers. These items may be stored at no cost in lockers or other storage facilities in the NARA fa-

cility. The following exceptions may be granted:

(1) Hand-held wallets and coin purses for carrying currency, coins, credit cards, keys, drivers licenses and other identification cards may be brought into research rooms, but are subject to inspection when the researcher enters or leaves the room. The guard or research room attendant shall judge whether the wallet or purse may be considered small for purposes of this section;

(2) Notes, references, lists of documents to be consulted, and other materials may be admitted if the director, or the senior attendant on duty in the research room determines they are essential to a researcher's work requirements. Materials will be presented to the attendant when the researcher enters the research room. If the materials are approved for admission, they may be stamped to indicate that they are the researcher's property;

(3) Typewriters, personal computers, tape recorders, and hand-held cameras may be admitted by the guard or research room attendant provided that they are inspected, approved, and tagged prior to admittance. The director, or the senior attendant on duty in the research room will review the determination made by the guard or research room attendant if requested to do so by the researcher. In facilities where personal paper-to-paper copiers are permitted, the researcher must obtain prior written approval from the facility director to bring in the copier. The request to bring a personal copier should state the space and power consumption requirements and the intended period of use; and

(4) Notepaper and notecards provided by the National Archives and electrostatic copies made on copying machines in NARA research rooms which are marked with the statement "Reproduced at the National Archives" may be brought back into the research room on subsequent visits but must be presented on entry to the guard or research room attendant for inspection.

(d) NARA may furnish specially marked lined and unlined notepaper and notecards, without charge, to researchers for use in the research rooms. Unused notepaper and

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notecards should be returned to the research room attendant at the end of the day.

(e) The personal property of all researchers, including notes, electrostatic copies, typewriter cases, tape recorders, cameras, personal computers, and other personal property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

(f) Researchers may use NARA self-service copiers or authorized personal paper-to-paper copiers to copy documents in accordance with NARA document handling instructions and after review of the documents by the research room attendant to determine their suitability for copying. The director or the senior archivist on duty in the research room will review the determination of suitability if requested by the researcher. The following types of documents are not suitable for copying on a self-service or personal copier:

- (1) Bound archival volumes;
- (2) Documents fastened together by staples, clips, acco fasteners, rivets, or similar fasteners, where folding or bending the document may cause damage;
- (3) Documents larger than the glass copy plate of the copier;
- (4) Documents with uncanceled security classification markings;
- (5) Documents with legal restrictions on copying; and
- (6) Documents which, in the judgment of the research room attendant, are in poor physical condition or which may be subject to possible damage if copied.

[51 FR 31617, Sept. 4, 1986, as amended at 59 FR 29192, 29194, June 6, 1994]

### Subpart C—Access to Unclassified Records and Donated Historical Materials

#### § 1254.30 Archives.

The use of archives is subject to the restrictions prescribed by statute or Executive order or by the restrictions specified in writing in accordance with 44 U.S.C. 2108 by the agency from

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which the records were transferred. NARA will make available any reasonably segregable portion of a record after the restricted portion has been deleted. The restrictions are published in the “Guide to the National Archives of the United States,” and supplemented by restriction statements approved by the Archivist of the United States and set forth in part 1256 of this chapter. The Guide is available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The Guide may also be consulted at the NARA research facilities listed in part 1253 of this chapter.

[54 FR 32069, Aug. 4, 1989]

#### § 1254.32 FRC records.

Requests for access to records on deposit in Federal records centers shall be addressed directly to the appropriate agency or to the FRC director at the address shown in part 1253. The use of FRC records is subject to access rules prescribed by the agency from which the records were transferred. When the agency’s rules permit, NARA makes FRC records available to requesters. When access is precluded by these rules and restrictions, the FRC director will refer to the responsible agency the requests and any appeals for access, including those made under the Freedom of Information Act.

[40 FR 7925, Feb. 24, 1975. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1254.34 Records of defunct agencies.

Access to archives and FRC records received from agencies which have ceased to exist without a successor in function are handled in accordance with §§ 1254.30 and 1254.50.

[44 FR 18496, Mar. 28, 1979. Redesignated at 50 FR 15723, Apr. 19, 1985]

#### § 1254.35 Presidential records and Nixon Presidential materials.

Access to Presidential records transferred to NARA is governed by 36 CFR part 1270. Access to the Nixon Presidential materials is governed by 36 CFR part 1275.

[59 FR 29194, June 6, 1994]

**§ 1254.36 Donated historical materials.**

The public use of donated historical materials is subject to restrictions on their use and availability as stated in writing by the donors or depositors of such materials and other restrictions imposed by statute. (Researchers are encouraged to confer with the appropriate director or reference staff member on any question of copyright.) In addition, use is subject to all conditions specified by the Archivist of the United States for purposes of archival preservation.

[59 FR 29194, June 6, 1994]

**§ 1254.38 Freedom of Information Act requests.**

(a) *Applicability.* This section applies to Freedom of Information Act requests for unclassified and classified archives. This section does not apply to requests for FRC records or donated historical materials.

(b) *Definitions.*

*Potentially confidential commercial information* means records submitted to any agency by a submitter that may contain material exempt from release under 5 U.S.C. 552(b)(4) because disclosure could reasonably be expected to cause a submitter substantial competitive harm.

*Submitter* means any person or entity providing potentially confidential commercial information to an agency. The term *submitter* includes, but is not limited to, corporations, state governments, and foreign governments.

(c) *Requirements.* Requests for access to archives under the FOIA shall reasonably describe the records requested, shall be made in writing to the director of the appropriate NARA depository listed in part 1253 of this chapter or to the Assistant Archivist for the National Archives, and shall clearly indicate that the request is being made under the Act.

(d) *Processing time.* NARA shall inform requesters of the availability of records within 10 workdays after receiving a request, except when precluded from doing so by conditions as described in 5 U.S.C. 552a(6)(B), or by the need to consult with a submitter, as set forth in § 1254.39.

(e) *Denial of access.* Denials under the FOIA of access to archives are made by the appropriate director of a Presidential library or a regional archives or the Assistant Archivist for the National Archives, who, within 10 workdays, shall notify the requester of the reasons for the denial and of the procedures for appeal.

(f) *Appeals.* (1) A requester whose request for access is denied in whole or in part, or who receives a response that no responsive records were found and who considers the latter response as adverse in nature, may appeal that decision or finding within NARA. The appeal shall be in writing and addressed to the Deputy Archivist of the United States (ND), National Archives, Washington, DC 20408.

(2) The Deputy Archivist must receive an appeal no later than 35 calendar days after the date of the NARA letter of denial to be considered timely.

(3) The appeal letter shall include the words "Freedom of Information Act Appeal" on both the letter and the envelope, and the requester shall enclose with the appeal letter a copy of the initial request and the denial.

(4) In the appeal letter the requester shall briefly state the reasons why NARA should release the records, or, if no responsive records were found and the requester considers this to be an adverse determination, why the requester thinks that the search does not meet the requirements of the FOIA.

(5) The Deputy Archivist shall consult with the agency specifying the restriction, when appropriate, and make a determination within 20 workdays after the date of receipt by the Deputy Archivist of the appeal. If an extension is required, the Deputy Archivist shall notify the requester within 20 workdays from receipt of the request. Time extensions shall not exceed 10 workdays in the aggregate: either solely in the initial stage or solely in the appellate stage, or divided between them.

(6) If the determination is adverse in whole or in part, the Deputy Archivist shall notify the requester of the right to judicial review.

(7) Denials and appeals of denials of access to information under the FOIA exemption 552(b)(1), national security

information, are processed in accordance with the provisions of § 1254.40.

[54 FR 32069, Aug. 4, 1989, as amended at 56 FR 2136, Jan. 22, 1991; 57 FR 22431, May 28, 1992]

**§ 1254.39 Requests for commercial information.**

(a) *Notice of receipt of request.* (1) Submitters of potentially confidential commercial information shall be given written notice and an opportunity to object to release when a request is received for information the submitter designated in accordance with the recipient agency's regulations as commercial confidential, and the request is received less than 10 years after submission of the information.

(2) When the request is for information from a single or small number of submitters, the notice shall be sent to the submitter's last known address.

(3) When the request is for information from a large number of submitters, notice shall be provided by publication of a notice in the FEDERAL REGISTER.

(4) The notice shall either describe the potentially commercially confidential information requested (if the notice is published in the FEDERAL REGISTER), or provide copies of the records containing the information.

(5) NARA shall inform the requester that:

(i) Notice of receipt of a request has been provided to the submitter;

(ii) The response to the request may be delayed beyond the limitations specified in 5 U.S.C. 552(a)(6) (A) and (B) to allow for time to provide notice to the submitter, and to consider any response;

(iii) The delay may be considered as a denial of access to records and that the requester may seek judicial review. However, the requester shall be invited to agree to a voluntary extension of time so that NARA may consider any claims of commercial confidentiality provided by the submitter.

(b) *Opportunity to object to disclosure.* (1) Through the notice described in paragraph (a)(1) of this section, NARA shall afford a submitter a reasonable period of time within which to provide NARA with a detailed statement of any objections to disclosure. A reasonable

extension of the time limit for response may be granted when appropriate.

(2) The statement shall specify which information is claimed to be of a confidential commercial nature, and shall specify all grounds for withholding any of the information under the exemptions of the FOIA. If exemption (b)(4) of the FOIA is cited, the statement shall explain how the release of the information can be reasonably expected to cause substantial competitive harm to the submitter.

(3) The statement shall contain a certification that the information has not been published or officially released to the public.

(4) The statement provided pursuant to this subsection may itself be subject to disclosure under the FOIA under § 1250.75.

(c) *Notice of intent to disclose.* NARA shall carefully consider any good faith designations of commercial confidentiality made when the information was initially submitted to an agency, and any timely objections submitted in response to the NARA notice of receipt of a request to release. Except as provided for in paragraph (e) of this section, when NARA determines to disclose, whether in response to a request to release or as the result of an appeal of a denial of access, notice shall be sent to the submitter that:

(1) States why the initial designation or the objections were not sustained;

(2) Describes or encloses a copy of the information proposed for disclosure; and

(3) Specifies a date on which it is proposed to release the information unless barred by court order. The requester shall be simultaneously informed of the disclosure date.

(d) *Notice of law suit.* NARA will promptly inform the requester and submitter of any law suit filed by the other concerning possible disclosure.

(e) *Exception to notice requirements.* The notice requirements of this section do not apply when:

(1) NARA determines that the information should not be disclosed in accordance with one or more FOIA exemptions;

(2) The information has been published or officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or,

(4) More than 10 years have passed since the date of submission, regardless of any designation as commercially confidential made by the submitter in accordance with the recipient agency's regulations, and NARA has no substantial reason to believe that disclosure would result in competitive harm.

(5) The submitter failed to respond to a notice of receipt of request, in which case this initial notice shall serve as the notice of intent to disclose.

[54 FR 32070, Aug. 4, 1989]

#### Subpart D—Access to National Security Information

##### **§ 1254.40 Access to national security information.**

(a) Declassification of and public access to national security information and material, hereinafter referred to as "classified information" or collectively termed "information" is governed by Executive Order 12356 of April 2, 1982 (3 CFR, 1982 Comp., p. 166), the implementing Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982) and the Freedom of Information Act (5 U.S.C. 552).

(b) Public access to documents declassified in accordance with this regulation may be restricted or denied for other reasons under the provisions of 5 U.S.C. 552(b) for accessioned agency records; 36 CFR 1254.36 for donated historical materials; 44 U.S.C. 2201 *et seq.* and 36 CFR part 1270 for Presidential records; and 44 U.S.C. 2111 note and 36 CFR part 1275 for Nixon Presidential materials.

[59 FR 29194, June 6, 1994]

##### **§ 1254.44 Freedom of Information Act requests.**

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the Freedom of Information Act are processed in accordance with the provisions of § 1254.38. Time limits for responses to Freedom of Information Act

requests for national security information are those provided in the act rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12356.

(b) *Agency action.* Upon receipt of a request forwarded by NARA for a determination regarding declassification, the agency with declassification responsibility shall:

(1) Advise whether the information should be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reason any requested information should not be declassified; and

(3) Return all reproductions referred for determination, including a copy of each document which should be released only in part, marked to indicate the portions which remain classified.

(c) *Denials and Appeals.* Denials under the Freedom of Information Act of access to national security information accessioned into the National Archives are made by designated officials of the originating or responsible agency. NARA notifies the requestor of the agency's determination. Appeals of denials of access to national security information must be made in writing to the appropriate authority in the agency having declassification responsibility for the denied information as indicated in § 1254.42. The agency appellate authority shall make a determination in accordance with 5 U.S.C. 552(b). The agency appellate authority shall notify NARA and the requestor in writing of the final denials. The agency will also furnish to NARA a copy of each document released only in part, marked to indicate the portions which remain classified.

[49 FR 1349, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985; further redesignated and amended at 51 FR 22076, June 18, 1986; 54 FR 32070, Aug. 4, 1989]

##### **§ 1254.46 Public requests for mandatory review of classified information under Executive Order 12356.**

United States citizens or permanent resident aliens, Federal agencies, or State or local governments wishing to request mandatory review of classified information that has been accessioned

into the National Archives or donated to the Government may do so by describing the document or material containing the information with sufficient specificity to enable NARA to locate it with a reasonable amount of effort. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARA's capacity to serve all requestors on an equitable basis, NARA shall notify the requestor that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARA shall review for declassification and release the requested information or those declassified portions of the request that constitute a coherent segment unless withholding is otherwise warranted under applicable law. Requests for mandatory review should be addressed to the appropriate NARA depository listed in part 1253.

[49 FR 1350, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985]

**§ 1254.48 Access by historical researchers and former Presidential appointees.**

(a) Access to classified information may be granted to U.S. citizens who are engaged in historical research projects or who previously occupied policy-making positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/Presidential appointees access program should contact NARA at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARA will inform requesters of the agencies to which they will have to apply for permission to examine classified information, including classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency.

(b) Requestors may examine records under this program only after the originating or responsible agency:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with Executive Order 12356; and

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(c) To protect against the possibility of unauthorized access to restricted documents, a director may issue instructions supplementing the research room rules provided in subpart B.

[49 FR 1352, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985 and 51 FR 22076, June 18, 1986; 59 FR 29194, June 6, 1994]

**§ 1254.50 Fees.**

NARA will charge requesters for copies of declassified documents according to the fees listed in § 1258.12 of this chapter.

[59 FR 29194, June 6, 1994]

**Subpart E—Information, Reproduction, and Authentication Services**

**§ 1254.70 NARA copying services.**

(a) The copying of documents will be done by personnel of the National Archives and Records Administration with equipment belonging to NARA. NARA reserves the right to make a duplicate, at NARA expense, of any material copied. Such duplicates may be used by NARA to make additional copies for others.

(b) In order to preserve the original documents, documents which are available on microfilm or other alternate copy will not be copied by other means as long as a legible copy (electrostatic, photographic, or microfilm) can be made from the microfilm.

[52 FR 20080, May 29, 1987; 59 FR 29194, June 6, 1994]

**§ 1254.71 Researcher use of the self-service card-operated copiers in the National Archives Building, the Washington National Records Center and the National Archives at College Park.**

(a) *General.* Self-service card-operated copiers are located in research rooms in the National Archives Building, the Suitland Research Room in the Washington National Records Center, and the National Archives at College Park. Other copiers set aside for use by reservation are located in designated research areas. Procedures for use are outlined in paragraphs (b) through (g) of this section.

(b) *Hours of use.* (1) Copiers located in research rooms in the National Archives Building, the Suitland Research Room in the Washington National Records Center, and the National Archives at College Park may be used until 15 minutes prior to closing of the research room. There is a five-minute time limit on these copiers when others are waiting to use the copier. Researchers using microfilm reader-printers may be limited to three copies when others are waiting to use the machine. Researchers wishing to copy large quantities of documents should see a staff member in the research room to reserve a copier for an extended time period.

(2) Reserved self-service copiers located in the designated research area on the second floor of the National Archives Building may be used between 9 a.m. and 12 noon and between 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays. The reserved self-service copier located in the designated research area at the Washington National Records Center may be used between the hours of 8 a.m. and 12 noon and between 1 p.m. and 4 p.m., Monday through Friday, except Federal holidays.

(i) A copier may be reserved for one hour at a time in the textual research room in the National Archives Building and the National Archives at College Park and for one-half hour at a time in the Microfilm Research Room in the National Archives Building and in the Suitland Research Room in the Washington National Records Center. Another appointment may be reserved

after completing the scheduled appointment. The appointment may be forfeited if the researcher does not arrive within 10 minutes after the scheduled time.

(ii) If an appointment must be canceled due to copier failure, NARA will make every effort to schedule a new mutually agreed-upon time. However, NARA will not displace researchers whose appointments are not affected by the copier failure.

(c) *Copying procedures.* (1) Individual documents to be copied shall be tabbed in accordance with the procedures governing the tabbing of documents and returned to their container. The research room attendant will examine the documents to determine whether they can be copied on the self-service copier. The chief of the branch administering the research room will review the determination of suitability if asked to do so by the researcher.

(2) Researchers using the reserved copiers must submit the containers of documents to the attendant for review at least one hour prior to the scheduled appointment. The research room staff will deliver the containers to the designated area where the reserved copiers are located. Researchers using self-service copiers located in the research room will transport their containers of documents to the copier themselves.

(3) Researchers may copy from only one box and one folder at a time. After copying the documents, the researcher must show the original documents and the copies to a research room attendant.

(d) *Documents not suitable for self-service copying.* The following types of documents may not be copied on the self-service copiers:

- (1) Bound archival volumes;
- (2) Documents fastened together by staples, clips, acco fasteners, rivets, or similar fasteners, where folding or bending documents may cause damage;
- (3) Documents larger than the glass copy plate of the copier;
- (4) Documents with uncanceled security classification markings;
- (5) Documents with legal restrictions on copying; and
- (6) Documents which, in the judgment of the research room attendant, are in poor physical condition or which

may be subject to possible damage if copied.

(e) *Cancellation of security classification markings.*

(1) Security classification markings (RESTRICTED, CONFIDENTIAL, SECRET, TOP SECRET, and others) on declassified records must be properly canceled before documents are copied. Only a NARA staff member can cancel security markings. Properly declassified documents will bear the declassification authority.

(2) Researchers may not remove from the research room copies of documents bearing uncanceled classification markings. Copies of documents with uncanceled markings will be confiscated.

(3) When individual documents are being copied, the research room staff will cancel the classification markings on each page and will place the declassification authority on the first page of each document. If the researcher is copying only selected pages from a document, the researcher must make a copy of the first page bearing the declassification authority and attach that page to any subsequent page(s) copied from the document. This declassification authority must be presented to the guard when copies of documents are removed from the research room and/or the building.

(4) Researchers using the reserved copiers are provided with a declassification strip which is attached to the copier. The strip, which is reproduced on each page copied, cancels the security markings.

(f) *Purchasing debitcards for copiers.* Researchers may use cash to purchase a debitcard from a vending machine during the hours that self-service copiers are in operation. Additionally, debitcards may be purchased with cash, check, money order, credit card, or funds from an active deposit account from the Cashier's Office located in room G-1 of the National Archives Building between the hours of 8:45 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. During the evening and weekend hours, the research room supervisor can make change for \$20 or less. The debitcard will, when inserted into the copier, enable the user to make copies, for the

appropriate fee, up to the value on the debitcard. Researchers may add value to the debitcard by using the vending machine. The fee for self-service copies is found in § 1258.12 of this chapter.

(g) *Refunds of unused amounts on debitcards.*

(1) To obtain a refund of any unused amount on a debitcard, a researcher must bring the debitcard to the Cashier's Office in room G-1 of the National Archives Building. Cash refunds for debitcards are currently limited to \$20.00 or less. Refunds due for more than \$20.00 are currently paid by U.S. Treasury check in approximately 6-8 weeks. Refunds due on debitcards obtained using credit cards will be made by issuing a credit of the refund amount to the credit card. Refunds due on debitcards obtained using funds from a deposit account will be made by crediting the refund to the deposit account.

(2) An NATF Form 30A, Request for Debit Card Refund or Credit, must be submitted to the Cashier's Office. The form is available from the research room staff or the Cashier. During evening hours and on Saturdays, researchers should enclose the completed form and debitcard in a preaddressed envelope, also available in the research room. The envelope may be dropped through the mail slot in room G-1 or mailed to the Cashier.

[56 FR 2136, Jan. 22, 1991; 56 FR 5731, Feb. 12, 1991; 59 FR 29194, June 6, 1994]

#### § 1254.72 Information about documents.

(a) Upon request, overall information pertaining to holdings or about specific documents will be furnished, provided that the time required to furnish the information is not excessive, and provided that the information is not restricted (see subpart C and subpart D).

(b) When so specified by a director, requests must be made on prescribed forms. Such forms will be approved by OMB as information collections and will bear the approved control number.

[59 FR 29195, June 6, 1994]

#### § 1254.74 Information from documents.

Normally, information contained in the documents will be furnished in the



form of photocopies of the documents, subject to the provisions of § 1254.70. NARA will certify facts and make administrative determinations on the basis of archives, or of FRC records when appropriate officials of other agencies have authorized NARA to do so. Such certifications and determinations will be authenticated by the seal of NARA, the National Archives of the United States, or the transferring agency, as appropriate.

[59 FR 29195, June 6, 1994]

#### **§ 1254.76 Certification of copies.**

The responsible director, or any of his or her superiors, the Director of the Federal Register, and their designees are authorized to certify copies of documents as true copies.

[59 FR 29195, June 6, 1994]

### **Subpart F—Microfilming Archival Records**

SOURCE: 52 FR 20081, May 29, 1987, unless otherwise noted.

#### **§ 1254.90 General.**

(a) This subpart establishes rules and procedures governing the use of privately owned microfilm equipment to film archival records and donated historical materials in the National Archives Building, the Washington National Records Center, the regional archives, and the Presidential libraries.

(b) Persons or organizations wishing to microfilm Federal agency records in the custody of a Federal Records Center should contact the director of the Center about procedures for obtaining permission to film those records.

(c) Federal agencies needing to microfilm archival records in support of the agency's mission must contact the Assistant Archivist for the National Archives, as soon as possible after the need is identified, for information concerning standards and procedures for microfilming archival records.

[52 FR 20081, May 29, 1987, as amended at 59 FR 29195, June 6, 1994]

#### **§ 1254.92 Requests to microfilm records and donated historical materials.**

(a) Requests to microfilm archival records or donated historical materials (except donated historical materials under the control of the Office of Presidential Libraries) in the National Archives Building, the Washington National Records Center, or the regional archives must be made in writing to the Assistant Archivist for the National Archives (NN), NARA, Washington, DC 20408. Requests to microfilm records or donated historical materials in a Presidential library or donated historical materials in the National Archives Building under the control of the Office of Presidential Libraries must be made in writing to the Assistant Archivist for Presidential Libraries (NL), NARA, Washington, DC 20408. OMB control number 3095-0017 has been assigned to the information collection contained in this section.

(b) Request to use privately owned microfilm equipment should be submitted six months in advance of the proposed starting date of the microfilming project. Requests submitted with less advance notice will be considered and may be approved if space is available for the cameras in the area set aside for private microfilming and if the records require minimal preparation for filming. Only one microfilming project may be included in a request. NARA will not accept additional requests from an individual or organization to microfilm records in a NARA facility while NARA is evaluating an earlier request from that individual or organization to microfilm records at that facility. NARA will establish the number of camera spaces available to a single project based upon the total number of projects approved for filming at that time.

(c) The request must include:

(1) A description of the documents to be copied which includes the following elements:

- (i) Agency of origin or, for donated historical materials, title of the collection,
- (ii) Title of series or file segment;
- (iii) Date span; and
- (iv) Estimated volume in number of pages or cubic feet.

(2) The estimated amount of time (work-days) that the microfilm copying project will take; the date that the requester would like to begin the project; and the number of persons who would require training (see § 1254.100(b)).

(3) The number and a description of the equipment that will be used for copying including:

(i) The name of the manufacturer and model number; and

(ii) The type of light source to be employed (fluorescent, tungsten, or electronic flash) and if electronic flash (i.e., strobe) or fluorescent, whether the light source is filtered to omit ultraviolet radiation.

(4) A statement of the procedures which will be followed to ensure that all pages are copied, that the images on the microfilm are legible, and that the microfilm is properly processed. At a minimum, the procedures should meet the requirements specified in part 1230 of this chapter regarding the microfilming of permanent records.

(d) The requester must agree to credit the National Archives or the particular Presidential Library having custody of the original documents. The credit must appear at the beginning of a microfilm publication and in any publicity material or descriptions of the publication.

(1) If the original documents are Federal records, the requester must agree to include on the film this statement: "The documents reproduced in this publication are among the records of the (name of agency) in the custody of the National Archives of the United States. No copyright is claimed in these official U.S. Government records."

(2) If the original documents are donated historical materials, the requester must agree to include on the film this statement: "The documents reproduced in this publication are donated historical materials from (name of donor) in the custody of the (name of Presidential library or National Archives). The National Archives administers them in accordance with the requirements of the donor's deed of gift and the U.S. Copyright Law, Title 17, U.S.C."

(e) If the person or organization producing the film plans to copyright the microfilm publication, the National Archives and Records Administration must be given a royalty-free worldwide license to sell the publication seven years after filming at the NARA facility is completed, or earlier if there is no commercial distributor.

[52 FR 20081, May 29, 1987; 52 FR 22415, June 11, 1987; 59 FR 29195, June 6, 1994]

**§ 1254.94 Criteria for granting the requests.**

(a) NARA will evaluate the requests on the basis of the extent to which completion of a proposed project would further NARA's efforts to preserve and to make available to the public the historically valuable records of the Government.

(b) NARA will approve only requests to microfilm a complete body of documents, such as an entire series or a major continuous segment of a very large series which is reasonably divisible. Microfilming a complete body of documents means that all documents within the file unit(s) to be microfilmed will be consecutively copied, from the first to the last page, not skipping any pages in between except for pages that are exact duplicates or blank pages that are not included in a pagination scheme.

(c) NARA will normally approve only requests which include assurances that the project will adhere to the specifications in part 1230 of this chapter which concern microfilm stock standards, index placement, and microfilm processing for permanent records.

(d) NARA will approve only requests which specify that NARA will receive a first generation silver halide duplicate negative containing no splices made from the original camera negative of the microform record created in accordance with part 1230 of this chapter.

(1) NARA may use this duplicate negative microform to make duplicate preservation and reference copies. The copies may be made available for NARA and public use in NARA facilities and programs.

(2) NARA may also sell copies of the microform seven years after filming at

the NARA facility is completed, or earlier if there is no commercial distributor. NARA may choose to add its own editorial material to the microform copies which NARA distributes or sells.

(e) NARA will not approve any request that does not include all of the information required by § 1254.92.

(f) NARA will normally not approve requests to microfilm documents:

(1) Which have previously been microfilmed and made available to the public;

(2) Which have been approved for microfilming by another party; or

(3) Which NARA plans to film as a NARA microfilm publication or which relate closely to other documents previously microfilmed or approved for microfilming by NARA. Exceptions to this provision may be granted at the discretion of NARA.

(g) NARA will normally not approve requests to microfilm the following categories of documents:

(1) Documents which include documents with general or specific restrictions on access that preclude their reproduction;

(2) Documents which include documents which are known to be protected by copyright;

(3) Documents of high intrinsic value which may be handled only by authorized NARA personnel;

(4) Documents in vulnerable physical condition;

(5) Documents having a high research demand and which would have to be denied to others for an extended period of time during the microfilming process. Where possible, NARA will assist requesters in developing filming schedules that avoid the need to close documents for a lengthy period of time; and

(6) Oversize documents, bound volumes, and other formats that would be subject to excessive stress and possible damage from special equipment planned to be used by the requester, as well as documents fastened with grommets, heavy duty staples, miscellaneous fasteners, or wafers and other adhesives that cannot be removed without tearing or breaking documents.

(h) NARA will normally not approve requests from persons or organizations who have failed to produce usable microfilm or to honor commitments

made in previous requests, or who have had a previous permission to microfilm documents rescinded because of their conduct.

(i) NARA will not approve requests to microfilm documents in NARA facilities in which there is insufficient space available for private microfilming. NARA will not move documents from a facility lacking space for private microfilming to another NARA facility for that purpose.

(j) Federal agencies microfilming records in support of the agency's mission may use the space set aside for private microfilming. Agency microfilming takes precedence over private microfilming when there is insufficient space to accommodate both at the same time.

#### **§ 1254.96 Microfilm preparation.**

(a) As part of its evaluation of a request to microfilm documents, NARA will determine the amount of microfilm preparation that NARA must do before the documents can be microfilmed and the estimated cost of such preparation. The fees for microfilm preparation will be based on direct salary costs (including benefits) and supply costs when NARA staff performs the work. When the work is performed by a NARA contractor, the fees will be the cost to NARA. Microfilm preparation includes:

(1) Verifying or correcting the arrangement of documents after withdrawn items are reviewed and refiled when appropriate;

(2) Screening the documents for possible restrictions on use;

(3) Declassifying security classified documents;

(4) Removing document fasteners from documents when the fasteners can be removed without damage to the documents; and

(5) Taking any document conservation actions that must be accomplished in order to film the documents, such as document flattening or mending.

(b) NARA will provide the requester detailed information on the fees for microfilm preparation in the letter of approval. Payment of fees will be made in accordance with § 1258.14 of this chapter. When a body of documents

#### § 1254.98

will require extensive microfilm preparation, a different payment schedule may be established at the discretion of NARA.

[52 FR 20081, May 29, 1987; 52 FR 22415, June 11, 1987; 59 FR 29195, June 6, 1994]

#### § 1254.98 Equipment standards.

(a) Equipment must be designed for the microfilming of documents in roll form or standard fiche form and be operable from a table top. Only planetary type camera equipment may be used. Automatic feed devices may not be used. Book cradles or other specialized equipment designed for use with bound volumes, oversized documents, or other formats will be approved by the Office of the National Archives on a case-by-case basis.

(b) The power consumption of the equipment normally must not exceed 1.2 kilowatts. Power normally available is 115 volts, 60 hz. Requests for electricity exceeding that normally available must be made at least 90 days in advance.

(c) Equipment having clamps or other devices to exert pressure upon or to affix the document to any surface in a way that might damage the document may not be used.

(d) The equipment must not use a heat generating light source in close enough proximity to the documents to result in their physical distortion or degradation. All sources of ultraviolet light must be filtered.

[52 FR 20081, May 29, 1987; 52 FR 22415, June 11, 1987]

#### § 1254.100 Microfilming procedures.

(a) Equipment used must conform to the equipment standards in § 1254.98.

(b) Documents must be handled in accordance with the training and instructions provided by NARA personnel so that documents are not damaged during copying and so that their original order is maintained. Only persons who have attended NARA training will be permitted to handle the documents or supervise microfilming operations. Training will be offered only in Washington, DC.

(c) Documents from only one file unit may be microfilmed at a time.

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(d) Documents may not be left unattended on the copying equipment or elsewhere.

(e) Under normal microfilming conditions, actual copying time per sheet must not exceed 30 seconds.

(f) Any lights used with the camera must be turned off when the camera is not in actual operation.

(g) Microfilm equipment may be operated only in the presence of the research room attendant or a designated NARA employee.

(h) The equipment normally should be in use each working day that it is in a NARA facility. The director of the NARA facility (as defined in § 1252.2 of this chapter) will decide when equipment must be removed because of lack of regular use. The equipment must be promptly removed upon request of the facility director.

(i) NARA assumes no responsibility for loss or damage to microfilm equipment or supplies left unattended.

(j) NARA will inspect the microform output at scheduled intervals during the project to verify that the processed film meets the microfilm preparation and filming standards required by part 1230 of this chapter. To enable NARA to properly inspect the film, NARA must receive the film within 5 days after it has been processed. The person or organization producing the microfilm will provide NARA with a silver halide duplicate negative of the filmed records (see § 1254.94(d)) according to the schedule shown in (k). If the processed film does not meet the standards, NARA may require that the records be re-filmed.

(k) When 10,000 or fewer images are filmed, the person or organization producing the microfilm will provide NARA with a silver halide duplicate negative upon completion of the project. When the project involves more than 10,000 images, a silver halide duplicate negative of the first completed roll or segment of the project reproducing this image count will be provided to NARA for evaluation; subsequent completed segments of the project, in quantities approximating 100,000 or fewer images, will be provided to NARA within 30 days after filming unless NARA approved other arrangements.

**§ 1254.102 Rescinding permission.**

NARA may, at any time, rescind permission to microfilm records:

(a) If the person or organization fails to comply with the microfilming procedures in § 1254.100;

(b) If inspection of the processed microfilm reveals persistent problems with the quality of the filming or processing;

(c) If the person or organization fails to proceed with the microfilming or project as indicated in the request, or

(d) If the microfilming project is having an unanticipated adverse effect on the condition of the documents or the space set aside in the NARA facility for microfilming.

## **PART 1256—RESTRICTIONS ON THE USE OF RECORDS**

Sec.

1256.1 Scope of part.

1256.2 Restrictions on access.

1256.4 Access to records containing personal information.

### **Subpart A—General Restrictions**

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1256.40 Agency-imposed restrictions.

### **Subpart C—Domestic Distribution of United States Information Agency Materials in the National Archives of the United States**

1256.50 Scope of subpart.

1256.52 Purpose.

1256.54 Definition.

1256.56 Transfer of USIA audiovisual records to NARA.

1256.58 Domestic distribution of USIA audiovisual records transferred to NARA.

1256.60 Fees.

AUTHORITY: 44 U.S.C. 2101–2118; 22 U.S.C. 1461(b).

**§ 1256.1 Scope of part.**

This part contains material referred to in § 1254.30.

[40 FR 56892, Dec. 5, 1975. Redesignated and amended at 50 FR 15723, 15727, Apr. 19, 1985]

**§ 1256.2 Restrictions on access.**

The use of some archives and donated historical materials transferred to the National Archives of the United States, especially those of recent date, is subject to restrictions prescribed in statute or Executive order, or restrictions specified by the donor or agency from which the records were transferred and imposed by the Archivist of the United States. Restrictions on access to particular records that have been specified by the donor or transferring agency are known as “specific restrictions.” Restrictions on access that may apply to more than one record group are termed “general restrictions,” and apply to the kinds of information or classes of records designated, regardless of the record group to which such records have been allocated. Both specific and general restrictions have been published in the “Guide to the National Archives of the United States.” (See § 1254.30.) Subparts A and B contain restrictions that have been added or revised since the publication of the latest edition of the Guide.

[40 FR 56892, Dec. 5, 1975. Redesignated at 50 FR 15723, Apr. 19, 1985]

**§ 1256.4 Access to records containing personal information.**

(a) *NARA policy.* Access to archival records containing information access to which would invade the privacy of an individual is restricted by § 1256.16.

(1) NARA may authorize access to such records for the purpose of statistical or quantitative research to qualified persons doing biomedical research under the conditions outlined in this section.

(2) If NARA is able to make a copy of such records with all personal identifiers masked or deleted, NARA will make such a “sanitized” copy of the record available to all researchers in accordance with part 1254 of this chapter.

(3) NARA will not grant access to restricted census and survey records of